

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

Western Division

21 cv 50435

Ca: Judge Iain D. Johnston
Magistrate Judge Lisa A. Jensen

RECEIVED

NOV 12 2021

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Eric of the Massenburg family

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

State of Illinois

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Fast
Petition for Writ of Mandamus and/or
Request for immediate Declaratory
Judgment asking The Court to rule on the
validity of Federal and State Constitutions &
laws with regard to the facts of a criminal
case with motion for acquittal

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Eric of The Massenburg Family
 All other names by which
 you have been known: _____
 ID Number (#167480)
 Current Institution Winnebago County Jail
 Address 650 West State Street
Rockford Illinois 61102
 City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Judge, Deborah Shaffer
 Job or Title (*if known*) Judge
 Shield Number Unknown
 Employer Winnebago County, Illinois / State of Illinois
 Address 400 West State Street
Rockford Illinois 61101
 City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name Mary Green
 Job or Title (*if known*) Juvenile Judge
 Shield Number Unknown
 Employer Winnebago County, Illinois / State of Illinois
 Address 400 West State Street
Rockford Illinois 61101
 City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Winnebago County, Illinois, State's Attorney

State's Attorney's Office

Unknown

Winnebago County, Illinois/State of Illinois

400 West State Street

Rockford

City

Illinois

State

61101

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The Right to Privacy - Specifically - Protections and Immunities created By the United States and the State of Illinois against Eavesdropping against the aggrieved without warrant or just cause.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Right to Privacy - specifically - Protections and Immunities created by the Constitutions of both the United States and the State of Illinois Constitutions against Eavesdropping against the aggrieved without warrant or just cause, by

Private Citizen and by Extension Law Enforcement officials.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

All defendants have used unlawfully obtained evidence and evidence derived therefrom, to initiate, ~~and~~ indict and prosecute the aggrieved using "evidence" unlawfully created by the aggrieved ex-wife; under the unlawful shield of Post Hoc evidence - using Color of law as the excuse. Doing so as part of their jobs."

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

☐

Pretrial detainee

☐

Civilly committed detainee

☐

Immigration detainee

☐

Convicted and sentenced state prisoner

☐

Convicted and sentenced federal prisoner

☒

Other (explain)

Post Trial Detainee awaiting sentencing

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

These events began with the unlawful activities of the aggrieved's ex-wife - who scorned - created an eavesdropping recording of the aggrieved after her inquiries of the aggrieved's children - not her own - yielded negative evidence of sexual abuse or abuse of any kind was indicated by them.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

C. What date and approximate time did the events giving rise to your claim(s) occur?

These events began approximately 2-10-2016 and continues to date as all unlawful activities of the defendants has resulted in post-trial pleadings currently being submitted; thus, the petition at hand.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The aggrieved, now, ex-wife sought to obtain statements from the aggrieved children stating that he had sexually abused them. Each - per her own testimony, twice - told her that I had not. Unhappy with the results, the ex-wife created a recording using her iPad modified with an after-market program to create a recording depicting the aggrieved abusing his youngest daughter. She, thereafter, presented it to law enforcement officials who, in turn, used it to indict the aggrieved. Then said law enforcement seized the aggrieved's children and re-interviewed them in order to prosecute the aggrieved and strip him of his parental rights.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I and my children - I'm sure - have suffered mental anguish for which I'm now medicated for due to the separation from my children as well as humiliation among those of my family, friends and community which can never be repaired. Also, the fear that my children may feel that I've abandoned them since I'm allowed no contact with them. Also, I've been captive in the Winnebago County Jail since 2-11-2016 and have thus lost unretrievable amount of time which could have been used to provide for my children and myself - monetarily, shelter, food, clothing and most importantly, spiritually.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

This is a request for Mandamus directing the 17th Circuit Judicial Court to abide by the laws, statutes, and Constitutional Rights, ~~and~~ Immunities and protections guaranteed to all; to recognize that I am protected by all privacy laws of both the United States and the State of Illinois - specifically with regards to eavesdropping; the return of all of my children to my care without further interaction nor interference from anyone; ~~and~~ Just compensation for the almost 6 years I've been unlawfully held; and an injunction barring any further actions from anyone against me in any court with regards to these and any related issues; finally, Judgment as to the merit of included motion for acquittal

Directed to the 17th Judicial Circuit Court.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☐ Do not know

N.A. (Not Applicable)

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

N.A.

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

N.A.

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

N.A.

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N.A.

2. What did you claim in your grievance?

N.A.

3. What was the result, if any?

N.A.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

N.A.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Not a Correctional Institute's Authority

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I've informed The 17th Judicial Courts multiple times; The State's attorney's; The Public Defender's office multiple times; etc.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I've submitted Memoranda of laws to support all of my claims and in response to all objections of The State's attorneys, Public Defender and The Judges. All have chosen to ignore them in favor of my being prosecuted.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

AS I UNDERSTAND IT, THIS IS NOT A SUIT; THEREFORE, PRIOR SUITS DO NOT APPLY.

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10.25.2021

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Eric Masseuburg
Eric of The Masseuburg family
(#167980)
650 West State Street
Rockford Illinois 61102
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

United States District Court Northern District of Illinois ^{Western} ~~Eastern~~ Division

ERIC MASSENBURG

FILE STAMP

accused

V,
State of Illinois

agency

Action No.

Request for Immediate
Declaratory Judgment &
asking the Court to rule
on the validity of State
and Federal Constitutions
and laws with regard to
the facts of a criminal case

Statement of Claim

After intense research (during these 6 years - as of 2-11-2022), I believe the overall Constitutional Protections and Immunities, regarding the Right to Privacy, have been purposely ignored with a view towards prosecuting and convicting the accused, ERIC MASSENBURG, of multiple counts of predatory sexual assault of minors due to the nature of the charges and not in adherence to State and Federal laws, statutes, Constitutional Protections and Immunities as guaranteed to all people. In particular the Right to Privacy, the Eavesdropping and Unlawful Video Recording Statutes have been erroneously ruled as inapplicable and thus, otherwise inadmissible evidence has been allowed to be used against the accused.

Jurisdiction

This court has Jurisdiction of the subject matter of this action because it arises out of the Constitutions and Laws of both the United States and of the State of Illinois. As more fully shown below, the dispute concerns Personal Privacy and violations of the Eavesdropping Statutes - to name only a few.

Nature of Dispute

1. The State of Illinois - 17th Judicial Circuit - has ruled that the privacy laws and Constitutions do not apply to me. The State believes that these statutes and protections do not apply due to the eavesdropper having been the accused ex-wife. However, considering the "Plain and Unambiguous language of the statutes", there is no excusing of interspousal eavesdropping as the State statute clearly states that "any person, including law enforcement" may be considered an eavesdropper; and that "an eavesdropper is anyone who uses an eavesdropping device". "An eavesdropping

Device being "any device capable" of recording a conversation intended to be secret. (Although, in 75 years an interception has not even been required); accordingly, - as also argued - The evidence come from an Unlawful Act and any evidence derived from the exploitation of an unlawful Act is inadmissible for any purpose or for use in any legal proceedings including a grand Jury hearing. The provisions with its immunity has been purposefully ignored and even rejected.

FACTS

2. The, now, ex-wife of the accused asked the accused biological children (5 in all - 4 by another woman), if they had been sexually abused by the accused. They, all 5, replied that they had not. The ex-wife decided to create surreptitious Video recordings depicting the accused sexually abusing his, then, 10 year old daughter. The ex-wife then submitted her Audio/Video recordings to law enforcement and State's attorneys. These agents then used the Audio/Video recordings as an excuse to re-interview the children. These interviews achieved the goal of the ex-wife, law enforcement, C.A.S.A. employees, family court and prosecutors to indict, prosecute and terminate the parental rights of the accused.
3. The accused has continually maintained and complained that all of these activities have been done Unlawfully, illegally and against the Constitutionally Protected Rights and Immunities and laws of both The United States and The State of Illinois. Further, he has maintained and argued that the ex-wife has, twice, testified and admitted under oath, the elements of the felony (I'm guessing - unknowingly) she has committed without any fear of her own prosecution, and in favor of prosecuting and convicting the accused.
4. The accused feels that, at various times, - under protest - he was ineffectively represented by the "Public Defender" who tended to work against the accused interests and according to law. Said "Public Defender" even went as far as to declare - in open court - that "Federal laws do not apply in State Courts"; a statement conveniently absent from transcripts, yet unrefuted by anyone as I've been pressing the issue. Even after I showed him correcting statute and case laws, he refused to move for a requested reconsideration of a suppression motion during which he made the said erroneous declaration; although the Judge did deny the motion, it seems, in accordance with the erroneous declaration. (Of Note: Neither the State's attorney nor the Judge verbally acknowledged his declaration).
5. Circumstances provided a new Judge directly after the suppression hearing - and a total of 2 New State's attorneys along the way - but saw no change in the violation of the accused Constitutionally Protected Rights and Immunities claimed above. The accused felt he had no advocates throughout the entire process, from the start until now - and no money nor outside support of any human kind -

and therefore perceived the need to go to a bench trial on his own accord. Only during trial did the accused become made aware of possible resources available to him through the "Public Defender's" office; due, yet again, to his information of the former "Public Defender". This outrage voiced during trial along with other issues, but were, of course, revealed to the accused far too late to be of use. This, among other things, eliminated various witnesses I'd wished to call on my behalf.

6. Finally, after an inevitable guilty verdict - considering these violations, the trial court has re-assigned - through the "Public Defender's" office - the same "Public Defender" to represent the accused in the post-trial proceedings; over the objection of the accused due to many of the issues to be claimed, the accused feels, involves the aforesaid "Public Defender". The accused maintains that it is a conflict of interest to presume the "Public Defender" will diligently argue against himself post-trial.
7. The accused feels that the charges and his ineligence has served to render all of his issues, claims and contentious matters for all concerned to ignore - amounting to a conspiracy to deny the Constitutionally Protected Rights and Immunities due the accused; to grant them would be to admit that the accused has spent almost 6 years in captivity in violation of said Rights. Also, admitting that the accused has the right to a tort against them all in their personal capacity due to their acting "Under Color of Law."

Declaration Sought

In order to resolve this controversy, the accused requests that, pursuant to 28 USC Section 2201, this court declare the respective rights of the party in this matter and, in particular, that the court declare that the 17th Judicial Circuit Court's ruling that the laws and Constitutions do not apply to the accused cannot stand in that it conflicts with the office of the legislature's right to make laws and denies the accused the Constitutionally Protected Rights to Privacy and the Immunities and Protections created thereby.

Propriety of Declaration

8. A valid case or controversy exists sufficient for this court to declare the Rights and Remedies of the accused in that the accused Rights to Privacy has and will continue to be violated and the Constitutions of both the United States and of the State of Illinois trampled upon by the actions of 17th Judicial Circuit Court of Illinois and its employees.
9. The accused requisite standing to request this declaration in that "this section not only requires the consent of one of the parties, but also a request by the State's attorney of the county in which the surreptitious surveillance is to take place, and these restraints on electronic eavesdropping and the

mandate of The Illinois Constitution demand strict construction of The Section and The equally strict scrutiny of all purported consents and requests, so that in Illinois citizens may be safeguarded from promiscuous governmental surveillance, civilian sweeping or other unreasonable intrusions into their privacy." — People v. Porcelli, 25 Ill. App. 3d 145, 323 N.E. 2d 1, 1974 Ill. App. LEXIS 2338 (Ill. App. Ct. 1st Dist. 1974)

10. This controversy is ripe for determination at this time because the court has found the accused guilty at a trial which never should have taken place; the effects of which declares that said court has taken the authority to override and even defy the Constitutional Protections and Immunities of the accused and to an even greater extent, all of the citizenry.
11. The accused now faces sentencing on a "voidable Judgment" affecting, not only the past — almost — 6 years but, the rest of his life.

Request for Relief

- A. Declaratory Judgment establishing the fact that his Constitutionally Protected Rights to Privacy was violated under the State and Federal Constitutions and Statutes;
- B. That it was an error to deny the suppression of said unlawful acts and evidence come by the exploitation of the unlawful acts;
- C. That the enclosed copy of the motion for Acquittal is accordingly with merit;
- D. The accused cost of captivity:
 1. Payment of the accused "Inmate Account Balance";
 2. Compensation for unlawful incarceration;
- E. A ruling of ineffective assistance of counsel — pre-trial;
- F. Any other relevant declarations;
- G. Any other compensation this court deems just, equitable and fair;
- H. An immediate recognizance bond based on the aforementioned violations and the total illegality.

As I am bound by Almighty God Jehovah to tell the truth at all times, I swear an oath before no man nor woman but declare the truth of all of the statements contained herein except for the statements that I declare to be upon information and/or belief.

Date: 10.4.2021

Eric Massenbourg
Eric of The Massenbourg family
650 West State Street
Rockford, Illinois 61102